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10/016,434

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Hidekazu Tanigawa

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

EXAMINER

SHANG, ANNAN Q

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/016,434

Applicant(s)

TANIGAWA ET AL.

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-47 and 49-59 is/are pending in the application.
- 4a) Of the above claim(s) 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-47 and 49-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 37-47 and 39-59 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of **U.S. Patent No. 5,648,813**. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

The current **application (10/016,434)**...equates to...**U.S. Pat. (5,648,813)**.

As to claim 37, the claimed "Signal receipt means for receiving for receiving a signal transmitted from the program transmitter, the signal being a multiplex signal including a program and a graphical interactive-picture-structure specification data specifying, by a script, a structure of the graphical interactive picture (GIP)..." equates

to "Signal receipt means for receiving a signal transmitted from the program transmitter, said signal..." of Pat '813 (col.72, lines 60-63 and lines 53-59);

The claimed "signal separation means for separating the signal received by the signal receipt means into a program signal and a GIP-structure specification data signal" equates to "signal separation means for separating the signal received by said signal receipt means..." of Pat '813 (col.72, lines 64-67);

The claimed "storage means for storing a plurality of basic picture elements in advance..." equates to "storage means for storing a plurality of basic picture elements in advance..." of Pat '813 (col.72, lines 53-59);

The claimed "first graphical interactive picture generation means for generating the GIP based on the GIP-structure specification data signal from the signal separation means" equates to "first graphical interactive picture generation means for generating the graphical interactive picture..." of Pat '813 (col.73, lines 1-6); and

The claimed "display means for displaying the GIP generated by the first GIP generations means..." equates to "display means for displaying the graphical interactive picture..." of Pat '813 (col.73, lines 7-9).

As to claim 38, the claimed "where the basic picture elements are identified by identifiers..." equates to "basic picture elements being composed of file names identifying each basic picture..." of Pat '813 (col.72, lines 56-59).

As to claim 39, the claimed "interactive manipulation means for inputting manipulation to the GIP displayed by the display means, basic action storage means for storing a content of an action for updating the GIP-structure specification data; and

second GIP generation means for retrieving the content of the action from and basic action storage means based on action information directing an update of the GIP upon receipt of the input manipulation from the interactive manipulation means to update the GIP-structure specification data to generate an updated GIP” equates to “interactive manipulation means for inputting manipulation to the GIP displayed by the display means, basic action storage...” of Pat ‘813 (col.73, lines 11-25).

As to claim 40, the claimed “a receipt decode unit for receiving the GIP-structure specification data signal from the signal separation means to decode the same, a storage unit for storing decoded GIP-structure specification ‘GIPSS’ data from the receipt decode unit, the GIPSS data being composed of a panel object definition including a plurality of pieces of panel object information, and a shape definition including a plurality of pieces of shape information, a first process unit for retrieving the GIPSS data from the storage unit, extracting the basic picture elements corresponding to the identifier by referring to the shape information from the storage unit in accordance with the retrieved GIPSS data, and for placing the extracted basic picture elements by referring to the panel object information, and first display control unit for controlling the display means to display the basic picture elements placed by first process unit as the GIP” equates to “a receipt-decode unit for receiving...a storage unit for storing...a first process unit for retrieving...a first display control unit...” of Pat ‘813 (col.73, lines 28-53).

As to claim 41, the claimed “an input manipulation acceptance unit for accepting a user’s input, manipulation to the GIP, and an interactive signal transmission unit for transmitting the input manipulation accepted by the manipulation acceptance unit to the

second GIP generation unit as an interactive signal and where the second GIP generation means includes: an interactive signal receipt unit for receiving the interactive signal from the interactive signal transmission unit, an interactive signal interpretation unit for interpreting the interactive signal receipt unit; a GIPSS data update unit for retrieving a content of action from the basic action storage means in accordance with the interactive signal interpreted by the interactive signal interpretation unit to update the GIPSS data in the storage unit, a second process unit for retrieving updated GIPSS data from the storage unit and for extracting the basic picture elements corresponding to the identifier from the storage to place the extracted display elements, and second display controlling the display means to display the basic picture elements placed by the second process unit as an updated GIP" equates to "an input manipulation acceptance unit for receiving...an interactive signal transmission unit for...an interactive signal receipt for receiving...an interactive signal interpretation unit for interpreting...second process unit for retrieving updated...a second display control unit for controlling..." of Pat '813 (col.73, line 56-col.74, line 18).

As to claim 42, the claimed "information transmission means for transmitting the data of the GIP updated by the interactive manipulation means to the program transmitter" equates to "information transmission means for transmitting..." of Pat '813 (col.74, lines 20-23).

As to claim 43, the claimed "information transmission means for transmitting the data of the GIP updated by the interactive manipulation means to the program

transmitter” equates to “information transmission means for transmitting...” of Pat ‘813 (col.74, lines 24-26).

As to claim 44, the claimed “information record means for outputting...” equates to “information record means for outputting...” of Pat ‘813 (col.74, lines 28-30).

As to claim 45, the claimed “information record means for outputting...” equates to “information record means for outputting...” of Pat ‘813 (col.74, lines 32-34).

As to claim 46, the claimed “the graphical-interactive picture-structure specification data further includes a class definition including a plurality of...” equates to “the graphical-interactive picture-structure specification data further includes a class definition including a plurality of...” of Pat ‘813 (col.74, lines 36-38).

Claim 47 is met as previously discussed with respect to claim 41.

As to claim 49, the claimed “A program receiver for displaying a graphical-interactive picture by receiving transmitted from a transmitter...” is composed of the same structural elements that were discussed with respect to the rejection of claim 37.

Claim 50 is met as previously discussed with respect to claim 38.

Claim 51 is met as previously discussed with respect to claim 39.

Claim 52 is met as previously discussed with respect to claim 40.

Claim 53 is met as previously discussed with respect to claim 41.

Claim 54 is met as previously discussed with respect to claim 42.

Claim 55 is met as previously discussed with respect to claim 43.

Claim 56 is met as previously discussed with respect to claim 44.

Claim 57 is met as previously discussed with respect to claim 45.

Claim 58 is met as previously discussed with respect to claim 46.

Claim 59 is met as previously discussed with respect to claim 47.

Allowance of claims 37-47 and 39-59 of the instant application would result in an unjustified timewise extension of the monopoly defined by patent claim Y.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 37-47 and 49-59 are rejected under 35 U.S.C. 102(b) as being anticipated by **Baji et al (5,027,400)**.

As to claim 37, note the **Baji** references figures 1-5 and 13+, discloses multimedia bidirectional broadcast system and further discloses a program receiver for displaying a graphical interactive picture by receiving a program transmitted from a program transmitter, the program receiver comprising:

Signal receipt means (figs.3, 4, 15, 20+, Network Terminal 111 or 121) for receiving for receiving a signal transmitted from the program transmitter (Broadcast Station), the signal being a multiplex signal including a program and a graphical-interactive-picture-structure specification data specifying, by a script, a structure of the

graphical interactive picture 'GIP' (figs.15, 20, 22A, 24, 27-38, col.1, lines 6-39, col.2, line 25-49, col.3, line 30-col.4, line 1+ and col.7, line 23-65);

Signal separation means (Decoder 112 or Directional Filter 121) for separating the signal received by the signal receipt means into a program signal and a GIP-structure specification data signal (col.8, line 9-col.9, line 21 and col.13, line 28-40);

Storage means for storing a plurality of basic picture elements in advance, the plurality of basic picture elements being figures composing the GIP (col.8, line 9-col.9, line 21, col.10, line 49-col.11, line 1+, col.12, lines 24-68, col.19, line 11-col.20, line 1+ and col.21, line 12-col.22, line 1+)

First graphical interactive picture generation means for generating the GIP based on the GIP-structure specification data signal from the signal separation means by combining the basic picture elements stored in the storage means (col.1, lines 6-39, col.10, line 49-col.11, line 1+, col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4); and

Display means (TV Monitor) for displaying the GIP generated by the first GIP generations means (figs.29A-33 and col.20, line 24-col.23, line 4).

As to claim 38, Baji further discloses storage means for storing a plurality of basic picture elements in advance, the plurality of basic picture elements being figures composing the GIP manipulated by a user and the basic picture elements being identified by identifiers, and first GIP generating means for generating the GIP by combining the basic picture elements stored in the storage means (figs.15, 20, 22A, 24, 27-38, col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

As to claim 39, Baji further discloses interactive manipulation means for inputting manipulation to the GIP displayed by the display means;

Basic action storage means for storing a content of an action for updating the GIP-structure specification data; and second GIP generation means for retrieving the content of the action from and basic action storage means based on action information directing an update of the GIP upon receipt of the input manipulation from the interactive manipulation means to update the GIP-structure specification data to generate an updated GIP (col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

As to claim 40, Baji further discloses where the first GIP generation means includes: a receipt decode unit for receiving the GIP-structure specification data signal from the signal separation means to decode the same, a storage unit for storing decoded GIP-structure specification 'GIPSS' data from the receipt decode unit, the GIPSS data being composed of a panel object definition including a plurality of pieces of panel object information, and a shape definition including a plurality of pieces of shape information, a first process unit for retrieving the GIPSS data from the storage unit, extracting the basic picture elements corresponding to the identifier by referring to the shape information from the storage unit in accordance with the retrieved GIPSS data, and for placing the extracted basic picture elements by referring to the panel object information, and first display control unit for controlling the display means to display the basic picture elements placed by first process unit as the GIP (col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

As to claim 41, Baji further discloses the interactive manipulation means includes; an input manipulation acceptance unit for accepting a user's input, manipulation to the GIP, and an interactive signal transmission unit for transmitting the input manipulation accepted by the manipulation acceptance unit to the second GIP generation unit as an interactive signal and where the second GIP generation means includes: an interactive signal receipt unit for receiving the interactive signal from the interactive signal transmission unit, an interactive signal interpretation unit for interpreting the interactive signal receipt unit; a GIPSS data update unit for retrieving a content of action from the basic action storage means in accordance with the interactive signal interpreted by the interactive signal interpretation unit to update the GIPSS data in the storage unit, a second process unit for retrieving updated GIPSS data from the storage unit and for extracting the basic picture elements corresponding to the identifier from the storage to place the extracted display elements, and second display controlling the display means to display the basic picture elements placed by the second process unit as an updated GIP (col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

As to claim 42-43, Baji further discloses information transmission means for transmitting the data of the GIP updated by the interactive manipulation means to the program transmitter (col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

As to claims 44-45, Baji further discloses information record means for outputting data related to the GIP as per manipulation form the interactive manipulation means to make a record (col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

As to claim 46, Baji further discloses where the GIPSS data further includes a class definition including a plurality of pieces of class attribute (col.12, lines 24-68, col.19, lines 11-68 and col.20, line 24-col.23, line 4).

Claim 47 is met as previously discussed with respect to claim 41.

As to claim 49, the claimed "A program receiver for displaying a graphical-interactive picture by receiving transmitted from a transmitter..." is composed of the same structural elements that were discussed with respect to the rejection of claim 37.

Claim 50 is met as previously discussed with respect to claim 38.

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Response to Arguments

5. Applicant's arguments with respect to claims 37-47 and 49-59 have been considered but are moot in view of the new ground(s) of rejection. The amendment to the claims necessitated the new ground(s) of rejection discussed above. This office action is made final.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoarty (6,100,883) discloses home interface controller for providing interactive cable television.

Hendricks et al (6,052,554) disclose TV program delivery system.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA)** or **571-272-1000**.



Annan Q. Shang



CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600